

House Amendment 1251

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1 1 Amend the amendment, H=1216, to House File 619 as
1 2 follows:
1 3 #1. Page 4, by inserting before line 33, the
1 4 following:
1 5 _____. NEW SECTION. 155B.1 SHORT TITLE.
1 6 This chapter shall be known and may be cited as the
1 7 "Pharmacy Benefits Manager Regulation Act".
1 8 Sec. _____. NEW SECTION. 155B.2 PURPOSE AND
1 9 INTENT.
1 10 The purposes of this chapter are:
1 11 1. To establish standards and criteria for the
1 12 regulation and licensing of pharmacy benefits
1 13 managers.
1 14 2. To promote, preserve, and protect the public
1 15 health, safety, and welfare by and through effective
1 16 regulation and licensing of pharmacy benefits
1 17 managers.
1 18 Sec. _____. NEW SECTION. 155B.3 DEFINITIONS.
1 19 For purposes of this chapter, unless the context
1 20 otherwise requires:
1 21 1. "Board of pharmacy" or "board" means the board
1 22 of pharmacy examiners.
1 23 2. "Cease and desist order" means an order of the
1 24 board prohibiting a pharmacy benefits manager or other
1 25 person from continuing a particular course of conduct
1 26 which violates this chapter or the rules adopted under
1 27 this chapter.
1 28 3. "Commissioner" means the commissioner of
1 29 insurance.
1 30 4. "Enrollee" means an individual who is enrolled
1 31 in a pharmacy benefits management plan.
1 32 5. "Health insurance plan or contract" means a
1 33 third-party payment provider contract or policy that
1 34 is an individual or group policy of accident or health
1 35 insurance or individual or group hospital or health
1 36 care services contract issued pursuant to chapter 509,
1 37 509A, 514, or 514A, or an individual or group health
1 38 maintenance organization contract issued and regulated
1 39 under chapter 514B.
1 40 6. "Insolvent" or "insolvency" means a financial
1 41 situation in which, based upon the financial
1 42 information required by this chapter for the
1 43 preparation of a pharmacy benefits manager's annual
1 44 statement, the assets of the pharmacy benefits manager
1 45 are less than the sum of all the company's liabilities
1 46 and required reserves.
1 47 7. "Maintenance drug" means a drug prescribed by a
1 48 practitioner who is licensed to prescribe drugs and
1 49 used to treat a medical condition for a period of more
1 50 than thirty days.
2 1 8. "Multisource drug" means a drug that is stocked
2 2 and is available from three or more suppliers.
2 3 9. "Pharmacist" means pharmacist as defined in
2 4 section 155A.3.
2 5 10. "Pharmacists' services" include drug therapy
2 6 and other patient care services provided by a licensed
2 7 pharmacist intended to achieve outcomes related to the
2 8 cure or prevention of a disease, elimination or
2 9 reduction of a patient's symptoms, or arresting or
2 10 slowing of a disease process as defined by rule of the
2 11 board.
2 12 11. "Pharmacy" means pharmacy as defined in
2 13 section 155A.3.
2 14 12. "Pharmacy benefits management plan" means an
2 15 arrangement for the delivery of prescription services
2 16 in which a pharmacy benefits manager provides,
2 17 arranges for, pays for, or reimburses any of the costs
2 18 of prescription services for an enrollee on a prepaid
2 19 or insured basis which provides all of the following:
2 20 a. Contains one or more incentive arrangements
2 21 intended to influence the cost or level of
2 22 prescription services between the plan sponsor and one
2 23 or more pharmacies with respect to the delivery of
2 24 prescription services.

2 25 b. Requires or creates benefit payment
2 26 differential incentives for enrollees to use under
2 27 contract with the pharmacy benefits manager.
2 28 "Pharmacy benefits management plan" does not mean
2 29 an employee welfare benefit plan as defined in the
2 30 federal Employee Retirement Income Security Act of
2 31 1974, 29 U.S.C. } 1002(1), which is self-insured or
2 32 self-funded.
2 33 13. "Pharmacy benefits manager" or "company" means
2 34 an entity that administers the prescription drug or
2 35 device portion of a health insurance plan or contract
2 36 on behalf of the sponsors of the health insurance plan
2 37 or contract.
2 38 14. "Plan sponsor" means an employer, insurance
2 39 company, union, or health maintenance organization
2 40 that contracts with a pharmacy benefits manager for
2 41 delivery of prescription services.
2 42 15. "Usual and customary price" means the price
2 43 the pharmacist would have charged a cash-paying
2 44 patient for the same services on the same date
2 45 inclusive of any discounts applicable.
2 46 Sec. _____. NEW SECTION. 155B.4 CERTIFICATE OF
2 47 AUTHORITY.
2 48 1. A person shall not establish or operate as a
2 49 pharmacy benefits manager in this state to provide
2 50 pharmacy benefits management plans without first
3 1 obtaining a certificate of authority from the board of
3 2 pharmacy examiners. A pharmacy benefits manager
3 3 providing pharmacy benefits management plans in this
3 4 state shall obtain a certificate of authority from the
3 5 board every four years.
3 6 2. A person may apply to the board to obtain a
3 7 certificate of authority to establish and operate as a
3 8 pharmacy benefits manager in compliance with this
3 9 chapter if the person obtains an annual license to do
3 10 business in this state from the commissioner under
3 11 section 155B.5.
3 12 3. The board may suspend or revoke a certificate
3 13 of authority issued to a pharmacy benefits manager
3 14 under this chapter or may deny an application for a
3 15 certificate of authority if the board finds any of the
3 16 following:
3 17 a. The pharmacy benefits manager is operating
3 18 significantly in contravention of its basic
3 19 organizational document.
3 20 b. The pharmacy benefits manager does not arrange
3 21 for pharmacists' services.
3 22 c. The pharmacy benefits manager has failed to
3 23 meet the requirements for issuance of a certificate of
3 24 authority established in this chapter.
3 25 d. The pharmacy benefits manager is unable to
3 26 fulfill its obligation to furnish pharmacists'
3 27 services as required under its pharmacy benefits
3 28 management plan.
3 29 e. The pharmacy benefits manager is no longer
3 30 financially responsible and may reasonably be expected
3 31 to be unable to meet its obligations to enrollees or
3 32 prospective enrollees.
3 33 f. The pharmacy benefits manager, or any person on
3 34 the company's behalf, has advertised or merchandised
3 35 its services in an untrue, misrepresentative,
3 36 misleading, deceptive, or unfair manner.
3 37 g. The continued operation of the pharmacy
3 38 benefits manager would be hazardous to its enrollees.
3 39 h. The pharmacy benefits manager has failed to
3 40 file an annual statement with the commissioner in a
3 41 timely manner.
3 42 i. The pharmacy benefits manager has otherwise
3 43 failed to substantially comply with this chapter.
3 44 4. When the certificate of authority of a pharmacy
3 45 benefits manager is revoked, the company shall
3 46 proceed, immediately following the effective date of
3 47 the order of revocation, to conclude the company's
3 48 affairs and shall conduct no further business except
3 49 as may be essential to the orderly conclusion of the
3 50 affairs of the company. The board may permit further
4 1 operation of the company as the board may find to be
4 2 in the best interest of enrollees so that the
4 3 enrollees will be afforded the greatest practical
4 4 opportunity to obtain pharmacists' services.
4 5 Sec. _____. NEW SECTION. 155B.5 LICENSE TO DO

4 6 BUSINESS.

4 7 1. The commissioner shall not issue an annual
4 8 license to do business in this state to any pharmacy
4 9 benefits manager providing pharmacy benefits
4 10 management plans until the commissioner is satisfied
4 11 that the pharmacy benefits manager has complied with
4 12 all of the following:
4 13 a. Paid all fees, taxes, and charges required by
4 14 law.
4 15 b. Has made any deposit required by this chapter.
4 16 c. Has met the minimum capital and surplus
4 17 requirements specified by the commissioner.
4 18 d. Has filed any necessary financial statement and
4 19 any reports, certificates, or other documents the
4 20 commissioner considers necessary to secure a full and
4 21 accurate knowledge of the company's affairs and
4 22 financial condition.
4 23 e. Is solvent, and the company's financial
4 24 condition, method of operation, and manner of doing
4 25 business satisfy the commissioner that the company can
4 26 meet the company's obligations to all enrollees.
4 27 f. Has otherwise complied with all the
4 28 requirements of law.

4 29 2. The license shall be in addition to the
4 30 certificate of authority required by the board. A
4 31 nonrefundable license application fee of five hundred
4 32 dollars shall accompany each application for a license
4 33 to transact business in this state. The fee shall be
4 34 collected by the commissioner and shall be deposited
4 35 in the pharmacy benefits manager fund created in
4 36 section 155B.16.

4 37 3. The license shall be signed by the commissioner
4 38 or the commissioner's agent and shall expire on the
4 39 next June 30 after the date on which the license
4 40 becomes effective.

4 41 4. A pharmacy benefits manager providing pharmacy
4 42 benefits management plans shall obtain an annual
4 43 renewal of the company's license from the
4 44 commissioner. The commissioner may refuse to renew
4 45 the license of any pharmacy benefits manager or may
4 46 renew the license, subject to any restrictions
4 47 considered appropriate by the commissioner, if the
4 48 commissioner finds an impairment of required capital
4 49 and surplus, or if the commissioner finds that the
4 50 pharmacy benefits manager has not satisfied all the
5 1 conditions specified in this chapter. The
5 2 commissioner shall not fail to renew the license of
5 3 any pharmacy benefits manager to transact business in
5 4 this state without providing the pharmacy benefits
5 5 manager ten days' notice and providing the company an
5 6 opportunity to be heard. The hearing may be informal,
5 7 and the commissioner and the pharmacy benefits manager
5 8 may waive the required notice.

5 9 Sec. ____ NEW SECTION. 155B.6 ANNUAL STATEMENT.

5 10 1. A pharmacy benefits manager providing pharmacy
5 11 management benefits plans in this state shall file a
5 12 statement with the commissioner annually by March 1.
5 13 The statement shall be verified by at least two
5 14 principal officers of the pharmacy benefits manager
5 15 and shall cover the preceding calendar year. The
5 16 pharmacy benefits manager shall also submit a copy of
5 17 the statement to the board.

5 18 2. The statement shall be on forms prescribed by
5 19 the commissioner and shall include all of the
5 20 following:

5 21 a. A financial statement of the company, including
5 22 its balance sheet and income statement for the
5 23 preceding year.

5 24 b. The number of persons enrolled during the year,
5 25 the number of enrollees as of the end of the year, and
5 26 the number of enrollments terminated during the year.

5 27 c. Any other information relating to the
5 28 operations of the pharmacy benefits manager required
5 29 by the commissioner pursuant to this chapter.

5 30 3. If the pharmacy benefits manager is audited
5 31 annually by an independent certified public
5 32 accountant, a copy of the certified audit report shall
5 33 be filed annually with the commissioner by June 30.

5 34 4. The commissioner may extend the time prescribed
5 35 for any pharmacy benefits manager for filing an annual
5 36 statement or other reports, or exhibits of the

5 37 statement or report for good cause shown. However,
5 38 the commissioner shall not extend the time for filing
5 39 annual statements beyond sixty days after the time
5 40 prescribed by subsection 1. A pharmacy benefits
5 41 manager which fails to file its annual statement
5 42 within the time prescribed by this section may have
5 43 its license revoked by the commissioner or its
5 44 certificate of authority revoked or suspended by the
5 45 board until the annual statement is filed. The
5 46 commission may waive the requirements for a pharmacy
5 47 benefits manager to file financial information if an
5 48 affiliate of the pharmacy benefits manager is also
5 49 required to file the same information.

5 50 Sec. _____. NEW SECTION. 155B.7 FINANCIAL

6 1 EXAMINATION.

6 2 1. In lieu of or in addition to performing a
6 3 financial examination of a pharmacy benefits manager,
6 4 the commissioner may accept the report of a financial
6 5 examination by another person responsible for pharmacy
6 6 benefits managers under the laws of another state who
6 7 is certified by the insurance supervisory official,
6 8 similar regulatory agency, or the state health
6 9 commissioner of the other state.

6 10 2. The commissioner shall coordinate financial
6 11 examinations of pharmacy benefits managers that
6 12 provide pharmacy management benefits plans in this
6 13 state to ensure an appropriate level of regulatory
6 14 oversight and to avoid any undue duplication of effort
6 15 or regulation. The pharmacy benefits manager being
6 16 examined shall pay the cost of the examination.
6 17 Payments of the cost of the examination shall be
6 18 collected by the commissioner and shall be deposited
6 19 in the pharmacy benefits manager fund created in
6 20 section 155B.16.

6 21 Sec. _____. NEW SECTION. 155B.8 ASSESSMENT.

6 22 1. The expense of administering this chapter,
6 23 including the costs incurred by the commissioner and
6 24 the board, shall be assessed annually by the board
6 25 against all pharmacy benefits managers operating in
6 26 this state. Before determining the assessment, the
6 27 board shall request from the commissioner an estimate
6 28 of all expenses for the regulation, supervision, and
6 29 examination of all companies subject to regulation
6 30 under this chapter. The assessment shall be in
6 31 proportion to the business done in this state.

6 32 2. Assessments shall be collected by the
6 33 commissioner and shall be deposited in the pharmacy
6 34 benefits manager fund created in section 155B.16.

6 35 3. The board shall provide each pharmacy benefits
6 36 manager notice of the assessment, which shall be paid
6 37 to the board on or before March 1 of each year. A
6 38 pharmacy benefits manager that fails to pay the
6 39 assessment on or before the date prescribed shall be
6 40 subject to a penalty imposed by the board which is ten
6 41 percent of the assessment and interest for the period
6 42 between the due date and the date of full payment. If
6 43 a payment is made in an amount later found to be in
6 44 error, the following shall apply:

6 45 a. If the error found is an underpayment and an
6 46 additional amount is due, the commission shall notify
6 47 the company of the additional amount and the company
6 48 shall pay the additional amount within fourteen days
6 49 of the date of the notice.

6 50 b. If the error found is an overpayment, a refund
7 1 shall be ordered.

7 2 4. If an assessment made under this chapter is not
7 3 paid to the board by the prescribed date, the amount
7 4 of the assessment, penalty, and interest may be
7 5 recovered from the defaulting company on motion of the
7 6 board made in the name and for the use of the state in
7 7 the appropriate court after ten days' notice to the
7 8 company. The certificate of authority of a defaulting
7 9 company to transact business in this state may be
7 10 revoked or suspended by the board until the company
7 11 has paid the assessment.

7 12 Sec. _____. NEW SECTION. 155B.9 PHARMACY BENEFITS
7 13 MANAGER CONTRACTS.

7 14 1. A pharmacy benefits manager that contracts with
7 15 a pharmacy or pharmacist to provide pharmacists'
7 16 services through a pharmacy management plan for
7 17 enrollees in this state shall file the contract with

7 18 the board thirty days before the execution of the
7 19 contract. The contract shall be deemed approved
7 20 unless the board disapproves the contract within
7 21 thirty days after the contract is filed with the
7 22 board.

7 23 2. Disapproval of the contract shall be in
7 24 writing, stating the reasons for the disapproval, and
7 25 a copy of the written disapproval shall be delivered
7 26 to the pharmacy benefits manager.

7 27 3. The board, consistent with the board's
7 28 responsibility for protecting the public interest,
7 29 shall develop formal criteria for the approval and
7 30 disapproval of pharmacy benefits manager contracts.

7 31 4. The pharmacy benefits manager shall provide a
7 32 contract to the pharmacy or pharmacist that is written
7 33 in plain language that is generally understood by
7 34 pharmacists.

7 35 5. A pharmacy benefits manager that contracts with
7 36 a pharmacy or pharmacist to provide pharmacist
7 37 services through a pharmacy benefits management plan
7 38 for enrollees in this state on behalf of any health
7 39 plan sponsors shall be identified as the agent of the
7 40 health plan sponsor. The health plan fiduciary
7 41 responsibilities shall transfer to the contracting
7 42 pharmacy benefits manager.

7 43 6. A contract shall apply the same coinsurance,
7 44 copayment, and deductible to covered drug
7 45 prescriptions filled by any pharmacy or pharmacist who
7 46 participates in the network.

7 47 7. This section shall not be construed to prohibit
7 48 a contract from applying different coinsurance,
7 49 copayment, and deductible factors between generic and
7 50 brand-name drugs that an enrollee may obtain with a
8 1 prescription if the limits are applied uniformly to
8 2 all pharmacies or pharmacists in the health insurance
8 3 plan or contract network.

8 4 8. A pharmacy benefits management plan shall not
8 5 require a pharmacy or pharmacist to change an
8 6 enrollee's maintenance drug unless the prescribing
8 7 physician and the enrollee agree to the change.

8 8 9. A pharmacy's or pharmacist's participation in
8 9 any plan or network offered by a pharmacy benefits
8 10 manager is optional and at the discretion of the
8 11 pharmacy or pharmacist. The pharmacy's or
8 12 pharmacist's participation or lack of participation in
8 13 one plan shall not affect the pharmacy's or
8 14 pharmacist's participation in any other plan or
8 15 network ordered by the pharmacy benefits manager.

8 16 10. A pharmacy benefits manager that initiates an
8 17 audit of a pharmacy or pharmacist under the provisions
8 18 of the contract shall limit the methods and procedures
8 19 that are recognized as fair and equitable for both the
8 20 pharmacy benefits manager and the pharmacy or
8 21 pharmacist. An audit shall not allow for
8 22 extrapolation calculations. A pharmacy benefits
8 23 manager shall not recoup any moneys due from an audit
8 24 by setoff from future remittances until the results of
8 25 the audit are resolved and finalized by both the
8 26 pharmacy benefits manager and the pharmacy or
8 27 pharmacist. If the findings of an audit cannot be
8 28 finalized and agreed to by both parties, the
8 29 commissioner shall establish an independent review
8 30 board to adjudicate unresolved grievances.

8 31 11. a. Prior to terminating a pharmacy or
8 32 pharmacist from the network, a pharmacy benefits
8 33 manager shall provide the pharmacy or pharmacist with
8 34 a written explanation of the reason for the
8 35 termination at least thirty days before the actual
8 36 termination unless the contract termination action is
8 37 taken as the result of any of the following:

8 38 (1) Loss of the pharmacy's or pharmacist's license
8 39 to practice pharmacy or loss of professional liability
8 40 insurance.

8 41 (2) Conviction of fraud or misrepresentation in
8 42 regard to the contract.

8 43 b. A pharmacy or pharmacist may request and
8 44 receive, within thirty days, a review of the proposed
8 45 termination by the board prior to the termination.

8 46 12. The pharmacy or pharmacist shall not be held
8 47 responsible for actions of the pharmacy benefits
8 48 manager or plan sponsors and the pharmacy benefits

8 49 manager or plan sponsors shall not be held responsible
8 50 for the actions of the pharmacy or pharmacist.

9 1 Sec. _____. NEW SECTION. 155B.10 ENFORCEMENT.

9 2 1. The board shall develop formal investigation
9 3 and compliance procedures for responding to complaints
9 4 by health insurance plans or contract sponsors,
9 5 pharmacists, or enrollees concerning the failure of a
9 6 pharmacy benefits manager to comply with this chapter.
9 7 If, based upon an investigation or complaint, the
9 8 board has reason to believe that there is a violation
9 9 of this chapter, the board shall issue and serve upon
9 10 the pharmacy benefits manager concerned a statement of
9 11 the charges and a notice of a hearing to be held at a
9 12 time and place fixed in the notice, which shall not be
9 13 less than thirty days after notice is served. The
9 14 notice shall require the pharmacy benefits manager to
9 15 show cause why an order should not be issued directing
9 16 the company to cease and desist from the violation.
9 17 At the hearing, the pharmacy benefits manager shall
9 18 have an opportunity to be heard and to show cause why
9 19 an order should not be issued requiring the pharmacy
9 20 benefits manager to cease and desist from the
9 21 violation.

9 22 2. The board may perform an examination concerning
9 23 the quality of services of any pharmacy benefits
9 24 manager and providers with whom the pharmacy benefits
9 25 manager has contracts, agreements, or other
9 26 arrangements pursuant to its pharmacy benefits
9 27 management plan as often as the board deems necessary
9 28 for the protection of the interests of the people of
9 29 this state. The pharmacy benefits manager being
9 30 examined shall pay the cost of the examination.

9 31 Sec. _____. NEW SECTION. 155B.11 PRESCRIPTION DRUG
9 32 REIMBURSEMENT COSTS.

9 33 Pharmacy benefits managers shall use a current and
9 34 nationally recognized benchmark on which to base
9 35 reimbursements for prescription drugs and products
9 36 dispensed by pharmacies and pharmacists as follows:

9 37 1. For brand-name, single-source products, the
9 38 average wholesale price as listed in first data bank
9 39 or facts and comparisons correct and current on the
9 40 date the service was provided shall be used as the
9 41 index.

9 42 2. For generic drug, multisource products, maximum
9 43 allowable cost shall be established by referencing
9 44 first data bank facts and comparisons baseline prices.
9 45 Only products that are compliant with pharmacy laws as
9 46 equivalent and generically interchangeable with a
9 47 federal food and drug administration orange book
9 48 rating of "A=B" shall be reimbursed from a maximum
9 49 allowable cost price methodology. In the event a
9 50 multisource product has no baseline price, the product
10 1 shall be treated as a single-source branded drug for
10 2 the purpose of valuing reimbursement.

10 3 Sec. _____. NEW SECTION. 155B.12 PROHIBITED
10 4 PRACTICES.

10 5 1. A pharmacy benefits manager or its
10 6 representative shall not cause or knowingly permit any
10 7 of the following:

10 8 a. The use of advertising that is untrue or
10 9 misleading.

10 10 b. Solicitation that is untrue or misleading.

10 11 c. Any form of evidence of coverage that is
10 12 deceptive.

10 13 2. A pharmacy benefits manager, unless licensed as
10 14 an insurer, shall not use in its name, contracts, or
10 15 literature any of the following:

10 16 a. Any form of the word "insurance", "casualty",
10 17 "surety", or "mutual".

10 18 b. Any other words descriptive of the insurance,
10 19 casualty, or surety business, or deceptively similar
10 20 to the name or description of any insurer or fidelity
10 21 and surety insurer, doing business in this state.

10 22 3. A pharmacy benefits manager shall not
10 23 discriminate on the basis of race, creed, color, sex,
10 24 or religion in the selection of pharmacies or
10 25 pharmacists with whom the company does business.

10 26 4. A pharmacy benefits manager shall not unfairly
10 27 discriminate against pharmacists when contracting for
10 28 pharmacists' services.

10 29 5. A pharmacy benefits manager shall be entitled

10 30 access to usual and customary pricing only for
10 31 comparison to the reimbursement of a specific claims
10 32 payment made by the pharmacy benefits manager. Usual
10 33 and customary pricing is confidential and a pharmacy
10 34 benefits manager is prohibited from any other use or
10 35 disclosure of usual and customary pricing.

10 36 6. A pharmacy benefits manager shall not move a
10 37 plan to another payment network unless the pharmacy
10 38 benefits manager receives written consent from the
10 39 plan sponsor.

10 40 7. A pharmacy benefits manager shall not receive
10 41 or accept any rebate, kickback, or any special payment
10 42 or favor or advantage of any valuable consideration or
10 43 inducement for changing a patient's drug product
10 44 unless the change is specified in a written contract
10 45 that has been filed with the commissioner at least
10 46 thirty days prior to the execution of the contract.

10 47 8. A claim paid by a pharmacy benefits manager
10 48 shall not be retroactively denied or adjusted after
10 49 seven days from adjudication of the claim.

10 50 Acknowledgement of eligibility shall not be
11 1 retroactively reversed. A pharmacy benefits manager
11 2 may retroactively deny or adjust a claim only if the
11 3 original claim was submitted fraudulently, the
11 4 original claim payment was incorrect because the
11 5 provider was previously paid for services rendered, or
11 6 the services were not rendered by the pharmacist.

11 7 9. A pharmacy benefits manager shall not terminate
11 8 a pharmacy from a network based on any of the
11 9 following:

11 10 a. The pharmacy expresses disagreement with the
11 11 pharmacy benefits manager's decision to deny or limit
11 12 benefits to an enrollee.

11 13 b. A pharmacist employed by the pharmacy discusses
11 14 with a current, former, or prospective enrollee any
11 15 aspect of the person's medical condition or treatment
11 16 alternatives whether or not the service is a covered
11 17 service.

11 18 c. A pharmacist employed by the pharmacy makes a
11 19 personal recommendation regarding selecting a pharmacy
11 20 benefits manager based on the pharmacist's personal
11 21 knowledge of the health needs of the individual.

11 22 d. The pharmacy protests or expresses disagreement
11 23 with a medical decision, medical policy, or medical
11 24 practice of a pharmacy benefits manager.

11 25 e. The pharmacy has in good faith communicated
11 26 with or advocated on behalf of one or more of the
11 27 pharmacy's current, former, or prospective enrollees
11 28 regarding the provisions, terms, or requirements of
11 29 the pharmacy benefits manager's health benefit plans
11 30 as they relate to the needs of the individual
11 31 regarding the method by which the pharmacy is
11 32 compensated for services provided under the agreement
11 33 with the pharmacy benefits manager.

11 34 10. A pharmacy benefits manager shall not
11 35 terminate a pharmacy from a network or otherwise
11 36 penalize a pharmacy solely because of the pharmacy's
11 37 invoking of the pharmacy's right under the contract or
11 38 applicable law or regulation.

11 39 11. A pharmacy benefits manager's termination due
11 40 to incompetence or unprofessional behavior shall not
11 41 release the pharmacy benefits manager from the
11 42 obligation to make any payment due to the pharmacy for
11 43 services provided in special circumstances post=
11 44 termination to the enrollees at less than agreed-upon
11 45 rates.

11 46 12. Participation or lack of participation by a
11 47 pharmacy in a plan or network shall not affect
11 48 participation in any other plan or network offered by
11 49 a pharmacy benefits manager.

11 50 Sec. ____ NEW SECTION. 155B.13 DISCLOSURES.

12 1 1. The following shall be provided to the pharmacy
12 2 benefits manager enrollees at the time of enrollment
12 3 or at the time the contract is issued and shall be
12 4 made available upon request or at least annually:

12 5 a. A list of the names and locations of all
12 6 affiliated pharmacists' services providers.

12 7 b. A description of the service area or areas
12 8 within which the pharmacy benefits manager provides
12 9 prescription services.

12 10 c. A description of the method of resolving

12 11 complaints of enrollees, including a description of
12 12 any arbitration procedure if complaints may be
12 13 resolved through a specified arbitration agreement.
12 14 d. Notice that the pharmacy benefits manager is
12 15 subject to regulation in this state by both the board
12 16 of pharmacy examiners and the commissioner of
12 17 insurance.
12 18 e. A prominent notice included within the evidence
12 19 of coverage, providing substantially the following:
12 20 "If you have any questions regarding an appeal or
12 21 grievance concerning the pharmacists' services that
12 22 you have been provided, which have not been
12 23 satisfactorily addressed by your plan, you may contact
12 24 the board of pharmacy examiners." The notice shall
12 25 also provide the toll-free telephone number, mailing
12 26 address, and electronic mail address of the board of
12 27 pharmacy examiners.

12 28 2. Any disclosure from a pharmacy benefits manager
12 29 to enrollees shall be written plainly, using terms
12 30 generally understood by the general public and a copy
12 31 of the disclosure shall be provided to all pharmacies
12 32 that are members of the network.

12 33 Sec. ____ NEW SECTION. 155B.14 PRIVACY.

12 34 An enrollee has the right to privacy and
12 35 confidentiality in the provision of pharmacists'
12 36 services. This right may be expressly waived in
12 37 writing by the enrollee or the enrollee's guardian.

12 38 Sec. ____ NEW SECTION. 155B.15 INSOLVENCY.

12 39 1. If a pharmacy benefits manager becomes
12 40 insolvent or ceases to be a company in this state in
12 41 any assessable or license year, the company shall
12 42 remain liable for the payment of the assessment for
12 43 the period in which the company operated as a pharmacy
12 44 benefits manager in this state.

12 45 2. If a pharmacy benefits manager becomes
12 46 insolvent, the commissioner may, after notice and
12 47 hearing, levy an assessment, in addition to an
12 48 assessment pursuant to section 155B.8, on pharmacy
12 49 benefits managers licensed to do business in this
12 50 state. The assessments shall be paid quarterly to the
13 1 commissioner, and upon receipt by the commissioner
13 2 shall be paid over into an escrow account in the
13 3 pharmacy benefits manager fund. The escrow account
13 4 shall be used solely for the benefit of enrollees of
13 5 the insolvent pharmacy benefits manager.

13 6 Sec. ____ NEW SECTION. 155B.16 PHARMACY BENEFITS
13 7 MANAGER FUND == USES == ESCROW ACCOUNT.

13 8 1. A pharmacy benefits manager fund is created in
13 9 the state treasury under the authority of the
13 10 commissioner of insurance. Moneys received from
13 11 licensure of pharmacy benefits managers pursuant to
13 12 section 155B.5, from examinations collected pursuant
13 13 to section 155B.7, and from assessments collected
13 14 pursuant to section 155B.8 shall be deposited in the
13 15 fund. Moneys in the fund shall be used and an amount
13 16 necessary is appropriated, annually, to the division
13 17 of insurance of the department of commerce for the
13 18 purposes of enforcing this chapter.

13 19 2. An escrow account is created in the pharmacy
13 20 benefits manager fund. Assessments collected pursuant
13 21 to section 155B.15 shall be deposited in the account
13 22 and are appropriated to the division of insurance of
13 23 the department of commerce to be used solely for the
13 24 benefit of the enrollees of an insolvent pharmacy
13 25 benefits manager.>

13 26 #2. By renumbering as necessary.

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13 28
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13 30 JOCHUM of Dubuque
13 31 HF 619.707 80
13 32 pf/cl